

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MARSHA FAYE GALBREATH
7622 Katella Avenue
Stanton, CA 90680

Case No. 2011-550

Registered Nurse License No. **525493**

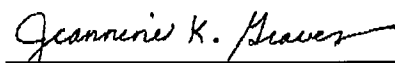
Respondent

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **June 13, 2011.**

IT IS SO ORDERED **June 13, 2011.**



President

Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 DIANE DE KERVOR
Deputy Attorney General
4 State Bar No. 174721
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2611
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2011-550

12 **MARSHA FAYE GALBREATH**
13 **7622 Katella Avenue**
14 **Stanton, CA 90680**

STIPULATED SURRENDER OF
LICENSE AND ORDER

15 **Registered Nurse License No. 525493**

16 Respondent.

17
18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
20 proceeding that the following matters are true:

21 PARTIES

22 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of
23 Registered Nursing. She brought this action solely in her official capacity and is represented in
24 this matter by Kamala D. Harris, Attorney General of the State of California, by Diane De
25 Kervor, Deputy Attorney General.

26 2. Marsha Galbreath (Respondent) is representing herself in this proceeding and has
27 chosen not to exercise her right to be represented by counsel.
28

3. On or about August 20, 1996, the Board of Registered Nursing issued Registered Nurse License No. 525493 to Marsha Galbreath (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2011-550 and will expire on December 31, 2011, unless renewed.

JURISDICTION

4. Accusation No. 2011-550 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 20, 2010. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2011-550 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 2011-550. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 2011-550, if proven at a hearing, constitute cause for imposing discipline upon her Registered Nurse License.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up her right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Registered Nurse License without further process.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 52593, issued to Respondent Marsha Galbreath, is surrendered and accepted by the Board of Registered Nursing.

15. The surrender of Respondent's Registered Nurse License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

16. Respondent shall lose all rights and privileges as a Registered Nurse in California as of the effective date of the Board's Decision and Order.

17. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.

18. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 2011-550 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

19. If and when Respondent's license is reinstated, she shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$6,660.50. Respondent shall be permitted to pay these costs in a payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the Board from reducing the amount of cost recovery upon reinstatement of the license.

20. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 2011-550 shall be

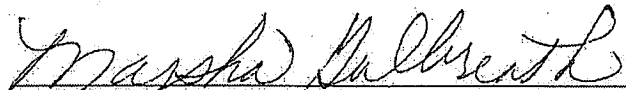
1 deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
2 Issues or any other proceeding seeking to deny or restrict licensure.

3 21. Respondent shall not apply for licensure or petition for reinstatement for two (2)
4 years from the effective date of the Board of Registered Nursing's Decision and Order.

5 ACCEPTANCE

6 I have carefully read the Stipulated Surrender of License and Order. I understand the
7 stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated
8 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound
9 by the Decision and Order of the Board of Registered Nursing.

10
11 DATED: 3/28/11


MARSHA GALBREATH
Respondent

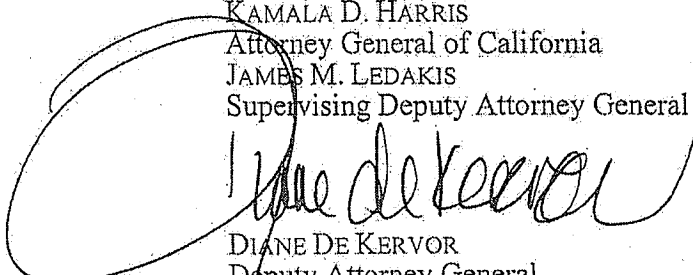
13
14 ENDORSEMENT

15 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
16 for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

17 DATED: 3/22/2011

Respectfully submitted,

18 KAMALA D. HARRIS
Attorney General of California
19 JAMES M. LEDAKIS
Supervising Deputy Attorney General

20 
21 DIANE DE KERVOR
22 Deputy Attorney General
23 Attorneys for Complainant

24
25 SD2010702562.
26 Stipulation.rtf
27
28

Exhibit A

Accusation No. 2011-550

1 EDMUND G. BROWN JR.
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
4 State Bar No. 101336
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-3037
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2011-550*

13 **Marsha Faye Galbreath**
14 **aka Marsha F. Galbreath**
15 **1884 E. Helmilk Avenue**
Carson, CA 90746

ACCUSATION

16 **Registered Nurse License No. 525493**

17 **Respondent.**

18
19 **Complainant alleges:**

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On or about August 20, 1996, the Board of Registered Nursing issued Registered
25 Nurse License Number 525493 to Marsha Faye Galbreath, aka Marsha F. Galbreath
26 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to
27 the charges brought herein and will expire on December 31, 2011, unless renewed.

28 *///*

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Section 2811, subdivision (b) of the Code, provides, in pertinent part, that the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

7. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

8. Section 2762 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

REGULATORY PROVISIONS

9. California Code of Regulations, title 16, section 1442, states:

As used in Section 2761 of the code, "gross negligence" includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life.

COSTS

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FACTUAL ALLEGATIONS

11. Respondent was employed at Orange Coast Memorial Medical Center (OCMMC) from February 16, 2004 through September 12, 2008, assigned to the Telemetry Unit's 7:00 p.m. to 7:00 a.m. shift.

12. On or about October 27, 2007, Respondent's supervisor at OCMMC sent Respondent to Prompt Care for a Fitness for Duty examination after respondent's supervisor observed strange behavior on the part of Respondent the previous day. The doctor who conducted Respondent's physical examination allowed Respondent to return to work with the restriction that Respondent was not to use the controlled substances Vicodin ES, Soma, Dilaudid, Darvocet, Lorazepam, or other narcotics or benzodiazepams while working.

13. On or about August 31, 2008, Respondent's supervisor, AS, received a call from OCMMC's Pharmacy reporting that Pharmacy staff was concerned because Respondent's speech was slurred, that she was not focused, and that it had occurred before. AS contacted a supervisor on duty, VR, and asked that VR relieve Respondent of her duties. When AS arrived at OCMMC, she and VR talked to Respondent to assess Respondent for fitness for duty. Both observed that Respondent was not focused and that Respondent's speech was slurred and she could not

1 remember any details regarding her patients. Respondent also appeared distressed and defensive
2 about the assessment that Respondent was not fit for duty. After Respondent completed the drug
3 screen, a cab took her home. The urine sample taken on August 31, 2008, came back positive for
4 Codeine, Oxazepam and Vicodin, thus violating the restrictions imposed on Respondent by an
5 examining physician on or about October 27, 2007.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Gross Negligence)**

8 14. Respondent has subjected her registered nurse license to disciplinary action for
9 unprofessional conduct under section 2761, subdivision (a)(1) in that she was grossly negligent,
10 as defined by California Code of Regulations, title 16, section 1442, in that between or about
11 October 27, 2007 and August 31, 2008, she reported for duty while under the influence of
12 controlled substances, when the taking of such controlled substances during work hours was
13 prohibited pursuant to a physician's order, as detailed at paragraphs 11-13, which are
14 incorporated here by reference. Respondent's actions demonstrated an extreme departure from
15 the standard of care.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Use of Controlled Substances to an Extent Or Manner Injurious to Self or the Public)**

18 15. Respondent is subject to disciplinary action under section 2762, subdivision (b) of the
19 Code for unprofessional conduct in that between or about October 27, 2007 and August 31, 2008,
20 Respondent used or was under the influence of controlled substances to the extent that it impaired
21 her ability to conduct with safety to her patients the practice of nursing. Respondent was
22 observed by her employers and coworkers to be exhibiting behavior consistent with the use of
23 controlled substances, when said use was specifically restricted by a physician as a condition of
24 allowing her to work at OCMMC, as is more fully detailed at paragraphs 15 through 17 and
25 incorporated here by reference.

26 ///

27 ///

28 ///

PRAYER

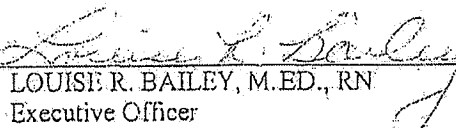
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 525493, issued to Marsha Galbreath, aka Marsha F. Galbreath;

2. Ordering Marsha Galbreath, aka Marsha F. Galbreath to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 12/30/10


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

(SD2010702562)
70401083.docx